



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 31 2017

REPLY TO THE ATTENTION OF:

VIA E-MAIL

Timothy Green  
Ford Motor Company  
3001 Miller Road  
Dearborn, Michigan  
Email: tgreen5@ford.com

Dear Mr. Green:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Ford Motor Company docket no. CAA-05-2017-0035. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on July 31, 2017.

Pursuant to paragraph 37 of the CAFO, Ford must pay the civil penalty within 30 days of the filing date. Your check must display the case name and case docket number.

Please direct any questions regarding this case to Tom Martin, Associate Regional Counsel, 312-886-4273.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brian Dickens", is written above the typed name.

Brian Dickens, Chief  
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Tom Martin/C-14J  
Tim Hess/HESST@michigan.gov  
Mina McLeMore/mclemorew@michigan.gov

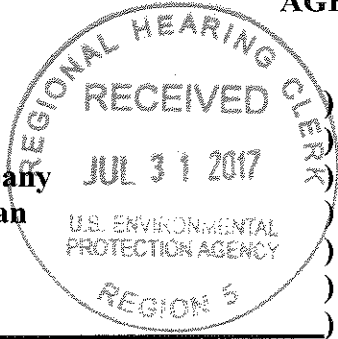
**UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION 5**

**In the Matter of:**

**Ford Motor Company  
Dearborn, Michigan**

**Respondent.**

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**Docket No. CAA-05-2017-0035**

**Proceeding to Assess a Civil Penalty  
Under Section 113(d) of the Clean Air Act,  
42 U.S.C. § 7413(d)**

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA or Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Ford Motor Company (Ford), a Delaware corporation doing business in Michigan.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this

CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations or the alleged violations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. Title V of the Act, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for major sources of air pollution.

10. In accordance with Section 502(b) of the Act, 42 U.S.C. § 7661a(b), EPA promulgated regulations establishing the minimum elements of a Title V permit program to be administered by any air pollution control agency. *See* 57 Fed. Reg. 32250 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

11. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to EPA a permit program meeting the requirements of Title V.

12. EPA granted interim approval of the Michigan Title V permit program on January 10, 1997. *See* 62 Fed. Reg. 1387 (effective on February 10, 1997). EPA granted source category limited interim approval of Michigan's Title V program on June 18, 1997. *See* 62 Fed. Reg. 34010 (effective on July 19, 1997). EPA fully approved the Michigan Title V program on December 4, 2001. *See* 66 Fed. Reg. 62949 (effective on November 30, 2001). The Michigan regulations governing the Title V permit program, also known as the "Renewable Operating Permit Program," are codified at Michigan Administrative Code, R 336.1210 - R 336.1219.

13. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

14. 40 C.F.R. § 70.6(b)(1) provides that all terms and conditions in a Title V permit are enforceable by EPA.

15. 40 C.F.R. § 52.23 provides that failure to comply with any permit limitation or permit condition contained within an operating permit issued under an EPA approved program that is incorporated into the SIP shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Act.

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for CAA violations that occurred after January 12, 2009 through December 6, 2013 and up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. The Administrator may assess a penalty greater than \$320,000 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

18. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a penalty greater than \$320,000 is appropriate for an administrative penalty action.

19. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

20. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

### **Factual Allegations and Alleged Violations**

21. Ford owns and operates an automotive assembly facility at 3001 Miller Road, in Dearborn, Michigan (the facility). Operations at the facility include Paint Shop topcoat booths and their associated air pollution control equipment.

22. The Michigan Department of Environmental Quality (Michigan DEQ) issued a Title V Permit to the facility, number MI-ROP-A8648-2010, effective June 10, 2010 (2010 Title V Permit).

23. Permit MI-ROP-A8648-2010 includes a Flexible Group that covers emission units at the entire facility, identified as "FG-Facility."

24. Condition I.1 for FG-Facility provides that Ford must limit the volatile organic compound (VOC) emissions from its facility to 897 tons per year (tpy) on a 12-month rolling time period.

25. Condition I.2 for FG-Facility provides that Ford must limit the VOC emissions from its facility to 4.8 pounds (lbs) of VOC per job.

26. Condition VI.1.c for FG-Facility identifies requirements for calculating the VOC emissions to determine compliance with the emission limitations in Condition I.1. and

I.2., Condition VI.1.c provides that Ford must keep:

“Calculations must show the capture and control efficiency of each control device used... Prior to the initial testing, for each controlled section, the design combined capture and control efficiency may be used. Thereafter, values no greater than the most recently tested values may be used.”

27. The topcoat booths at the facility consist of three sections: the basecoat section, the uncontrolled clearcoat section, and the controlled clearcoat section. The controlled clearcoat section is vented to a carbon wheel concentrator and then to a regenerative thermal oxidizer (RTO). Emissions from the uncontrolled clearcoat section are not captured and sent to the RTO but are vented directly to the atmosphere.

28. On November 6, 2004, Ford conducted performance testing at its Dearborn facility to determine the booth capture efficiency of the clearcoat sections of the topcoat booths.

29. The November 6, 2004 testing demonstrated that the booth capture efficiency of the controlled clearcoat section of the topcoat booth was 57%. It also demonstrated that the overall booth capture efficiency for the clearcoat sections (both controlled and uncontrolled zones) was 30%.

30. In calculating the VOC emissions pursuant to Condition VI.1.c of its Title V Permit, Ford assumed that the clearcoat sections of the topcoat booths (both controlled and uncontrolled) were achieving 57% overall booth capture efficiency, not the 30% overall booth capture efficiency demonstrated by its November 6, 2004 performance test.

31. Using the overall booth capture efficiency of the clearcoat sections of the topcoat booths of 30% determined by Ford's November 6, 2004 performance testing results, Ford emitted more than 897 tpy of VOCs, calculated as a 12-month rolling total from July 2012 (with a 12-month average from August 2011 through July 2012) through June 2013 (with

a 12-month average from July 2012 through June 2013).

32. Using the 30% overall booth capture efficiency of the clearcoat sections of the topcoat booths determined by Ford's November 6, 2004 performance testing results, Ford emitted more than 4.8 lbs of VOCs per job, calculated as a 12-month rolling average from May 2012 through September 2013 and from December 2014 through July 2015.

33. On December 28, 2015, EPA issued a Notice and Finding of Violation (NOV/FOV) to Ford alleging that it had violated Title V Permit Condition VI.1.c for FG- Facility, as well as its VOC limits as described in Paragraphs 31 and 32, above.

34. On February 2, 2016, representatives from EPA and Ford met to discuss the NOV/FOV. Ford informed EPA that in October 2014, Ford moved equipment from the uncontrolled area of the clearcoat booth into the controlled area of the clearcoat booth, thus increasing the overall amount of clearcoat that gets controlled by the RTO.

35. On January 24, 2016, Ford conducted a performance test demonstrating that the clearcoat sections of the topcoat booth were achieving an overall capture efficiency of 43.4%.

#### **Civil Penalty**

36. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and Respondent's cooperation in resolving this matter, Complainant has determined that an appropriate civil penalty to settle this action is \$389,000.

37. Within 30 days after the effective date of this CAFO, Respondent must pay a \$389,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

38. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-18J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Thomas Martin (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

39. This civil penalty is not deductible for federal tax purposes.

40. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

41. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate



established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

### **General Provisions**

42. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following e-mail addresses: martin.thomas@epa.gov (for Complainant), and tgreen5@ford.com, glogan@ford.com and bftaylor@sidley.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

43. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

44. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

45. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 43, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

46. Respondent certifies that, as of the date of Respondent's signature, it is complying fully with Title V Permit Condition VI.1.c for FG- Facility, as well as its VOC limits as described in Paragraphs 24 and 25, for the Ford Dearborn facility.

47. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

48. The terms of this CAFO bind Respondent, its successors and assigns, and Complainant.

49. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

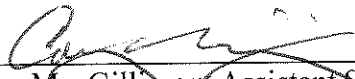
50. Each party agrees to bear its own costs and attorney's fees in this action.

51. This CAFO constitutes the entire agreement between the parties.

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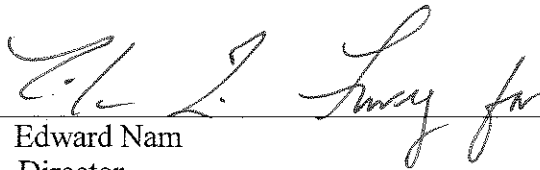
**Ford Motor Company, Respondent**

7-18-2017  
Date

  
\_\_\_\_\_  
Corey MacGillivray, Assistant Secretary  
Ford Motor Company

**United States Environmental Protection Agency, Complainant**

7/27/17  
Date



Edward Nam

Director

Air and Radiation Division

U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Ford Motor Company Docket**  
**No. CAA-05-2017-0035**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

July 28, 2017  
Date

Ann L. Coyle  
Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5

Consent Agreement and Final Order  
In the matter of: Ford Motor Company  
Docket Number: CAA-05-2017-0035

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number , which was filed on 7/31/2017, in the following manner to the following addressees:

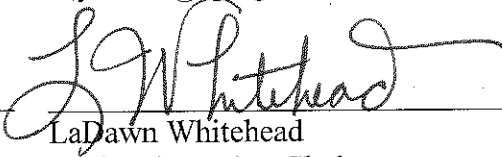
Copy by E-mail to Respondent: Timothy Green  
tgreen5@ford.com

Copy by E-mail to Attorney for Complainant: Thomas Martin  
martin.thomas@epa.gov

Copy by E-mail to Attorney for Respondent: Byron Taylor  
bftaylor@sidley.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle  
coyle.ann@epa.gov

Dated: July 31, 2017

  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5